

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

JAMES ORIN OGLE

PETITIONER

VS.

CIVIL ACTION NO. 1:06-cv-1144(DCB)  
Criminal No. 1:01-cr-29(DCB)(LG)

UNITED STATES OF AMERICA

RESPONDENT

ORDER

This cause is before the Court on the petitioner's motion for certificate of appealability (**docket entry 183**) and motion to proceed in forma pauperis on appeal (**docket entry 185**). Having carefully considered the motions, and being fully advised in the premises, the Court finds as follows:

On April 7, 2010, the petitioner filed a notice of appeal from this Court's Final Judgment dismissing his Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2255. The judgment also contains a denial of certificate of appealability. Also on April 7, 2010, the petitioner filed an Application for Certificate of Appealability with the Clerk of Court; however, his motion is addressed to the Fifth Circuit Court of Appeals, and seeks relief pursuant to Rule 22 of the Federal Rules of Appellate Procedure. On April 14, 2010, the Fifth Circuit opened petitioner's appellate case, cause no. 10-60282. Ogle filed his Motion for Certificate of Appealability with the appellate court on April 22, 2010. The motion pending on this Court's docket is therefore moot.

Ogle's motion to proceed in forma pauperis on appeal does not

meet the requirements of Rule 24(a)(1)(A) of the Federal Rules of Appellate Procedure. As a result, the petitioner must either pay the appellate filing fee or comply with the requirements of Rule 24(a)(1)(A) of the Federal Rules of Appellate Procedure by completing the form attached to this Order and returning the original to the Clerk of Court as set forth below. Accordingly,

IT IS HEREBY ORDERED that the petitioner's motion for certificate of appealability (**docket entry 183**) is MOOT;

FURTHER ORDERED that the petitioner pay the appellate filing fee of \$455.00 within 20 days of the date of the entry of this Order or complete the attached form and return it to the Clerk of Court within 20 days of the date of the entry of this Order;

FURTHER ORDERED that if the filing fee is paid by the petitioner or someone other than the petitioner, there must be a written explanation that the money is submitted as payment of the appellate filing fee in this case on behalf of the petitioner, James Orin Ogle;

IT IS FURTHER ORDERED that if the petitioner does not respond as ordered herein, his motion to proceed in forma pauperis shall be denied.

SO ORDERED, this the 28th day of June, 2010.

/s/ David Bramlette  
UNITED STATES DISTRICT JUDGE